

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, and Jewish Life through the Prism of Halacha



A PUBLICATION OF THE
BAIS HAVAAD HALACHA CENTER
 105 River Ave. #301, Lakewood NJ 08701
 1.888.485.VAAD (8223)
www.baishavaad.org
info@baishavaad.org
 Lakewood • Midwest • Brooklyn • South Florida

לע"נ הרב יוסף ישראל
 ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of
 HaRav Yosef Grossman zt"l

VOLUME 5782 • ISSUE XII • PARSHAS VAYECHI



SINS OF THE FATHERS

May societal standards be enforced by sanctioning offenders' children?

Adapted from the writings of Dayan Yitzhak Grossman

A girls' school in Brooklyn, Bais Yaakov D'Chassidei Gur, recently suspended several students due to their parents' affiliation with a breakaway faction of Gerrer chassidim.¹ The school explained in a public statement that this step was taken after the parents, by "[choosing] to align themselves openly with that group by attending [its events],"² "blatantly violated" a "parent cooperation agreement" stating that

a child whose parent affiliates himself (sic) with, or supports, a group that expresses disrespect and contempt towards the Gerrer *chinuch* or toward our Rebbes, unfortunately has no place in the *chinuch* network of Ger.

We have no intention of analyzing the history of

the dispute or assigning blame and responsibility; in this article, we will merely consider the general question of the legitimacy of suspending children from school as a means of enforcing social control or breaking the will of defiant parents. We shall see that although this may be jarring to modern sensibilities, the preponderance of traditional halachic opinion, from the Geonim to the Aruch Hashulchan, has indeed allowed such use of children in campaigns against refractory parents.

(It should be noted that the school's explanation for the suspensions reiterates numerous times that the continued presence of the students in question in the school is harmful to the *chinuch* of both them and their classmates, and causes "anguish" to the children and parents of "Gerrer homes," and concludes that

It is not a matter of spite—it is a matter of keeping a settled environment and to secure the *chinuch* that we are entrusted to promote.

In this article, however, we shall not consider the (admittedly important) *chinuch* aspects of the question, only the legitimacy of the tactic of

(continued on page 2)



PARSHAS VAYECHI

CRUISE CONTROL

Excerpted and adapted from a shiur by
 Rav Yehoshua Sova

Zevulun will dwell on the coast of the seas; he will be at the harbor of the ships, and his boundary will be at Tzidon.

Bereishis 49:13

There are many halachic issues that arise when embarking on a cruise on the high seas, a few of which we will mention here. To properly deal with all the issues, one must be aware of them in advance and prepare accordingly.¹

One issue is kashrus. Due to the large size of the kitchen staff on a cruise, a vigilant mashgiach is necessary to ensure that nonkosher food is not served. Additionally, he must verify that kosher and nonkosher *keilim* are not washed together, which may cause nonkosher *blios* (absorbed tastes) to migrate into the formerly kosher *keilim*. In addition, the mashgiach must prevent the *keilim* from being switched while in port.

One must be cognizant of the problem
 (continued on page 2)

¹ For a fuller discussion of the issues, see the article by Rabbi Zvi Goldberg of the Star-K, "Don't Miss the Boat: Halachic Guidelines of Kosher Cruises, available at <https://www.star-k.org/articles/kashrus-kurrents/5804/dont-miss-the-boat-halachic-guidelines-of-kosher-cruises-2/>.

Q&A from the
BAIS HAVAAD HALACHA HOTLINE
 1.888.485.VAAD(8223)
ask@baishavaad.org

The Leased He Could Do

Q I make my living as a car dealer. Since early in the COVID-19 era, prices in the used car market have been elevated. Of course, leasing companies like Ford Credit and GM Financial couldn't predict this three years ago, when a three-year lease now ending was signed. As a result, the residual value listed in the lease contract—the price at which the customer has the right to purchase the car at lease end—is usually thousands below the vehicle's current market value. The customer can exercise his buyout right at that low price and then flip the car for a significant profit.

Many lessees are not aware of this opportunity, so they just return the car to the dealer when the lease is over and walk away. The dealer, better informed than the customer, can then buy out the lease himself, (continued on page 2)

(continued from page 1)

suspending children as a mechanism of social control.)

THE GEONIM

There is a ruling, attributed variously to Rav Paltai bar Abaye Gaon or Rav Hai Gaon, setting forth various sanctions to be imposed upon someone who has been excommunicated for flouting the authority of the court or refusing to accept the prescribed consequences of a sin he committed, where the offender has remained obstinate and refused to concede his error. Among those sanctions is that his children are not to be taught Torah in shul.³

THE EARLY ACHARONIM

R' Yosef Karo (in his *Bedek Habayis*) notes that all these sanctions are "excessive stringencies" imposed by the Geonim upon those who flouted their edicts, by virtue of their singular authority, but were not practiced by later generations, who limited themselves to the Talmudic rules.⁴ Nevertheless, the Rama rules that:

The court has the authority to impose stringencies upon [one who has been excommunicated]...and to expel his children from school...⁵

For more than half a millennium, we have no record of any challenge to the position of the Geonim that children may be expelled from school due to the obstinacy of their parents; as we have seen, even R' Yosef Karo does not dispute the possibility of doing so in principle, despite his limitation of the practice to the Geonim, due to their singular authority. The Maharshah, however—an authority noted for his boldness and independence—did strongly object to such expulsions, to the point of declaring that the Geonim could not possibly have issued such a ruling:

Chalilah to interrupt the breath of children (i.e., reciting words of Torah), upon which the existence of the whole world depends...it is certainly obvious that there is no justification for [the interruption of] children's study of Torah, [the neglect of] which cannot be made up, and about which it is said: "If you abandon

me for one day, for two days will I abandon you..."⁷ and presumably [this ruling] did not emerge from the mouth of the Gaon...

Chalilah vechalilah to remove the sons [of one who has been excommunicated] from the bais midrash or from the yeshiva. One time in my youth, such an incident came before me, where a certain scholar, an elder of his generation and a halachic authority, wrote to me requesting that I remove from the yeshiva the son of someone who had been excommunicated, and I paid absolutely no attention to him.⁸

LATER ACHARONIM

The Shvus Yaakov cites the Maharshah's objections but nevertheless rules that "we should not deviate an iota from the ruling of the Bais Yosef in the Shulchan Aruch⁹ and the Rama, whom we follow, against the Maharshah."

The Taz defends the Geonic ruling by explaining that it applies to

young children, who do not yet have any independent merit, but depend on the merit of their parents...but not older ones, who are subject to the receipt of reward or punishment on their own account.¹⁰

R' Ben-Zion Meir Chai Uziel explains that when the Taz excludes "older" children from expulsion, he does not mean only those who have reached majority, but even those who have merely reached the age of *chinuch*.¹¹

The Chasam Sofer too defends the Geonic ruling,¹² as does the Aruch Hashulchan, who explains their position as follows:

And the court has the authority to impose stringencies upon [one who has been excommunicated]...and to expel his children from school...until he accepts upon himself the law, if they see that by this they will bend his head (i.e., secure his submission). But in the absence of such considerations, we do not punish children for the sins of their parents... even small children. (And with this distinction,

⁷ See Rashi Devarim 11:13. Cf. here.

⁸ Yam Shel Shlomo Bava Kama perek 10 siman 13.

⁹ Earlier in his discussion as well, the Shvus Yaakov asserts that the Shulchan Aruch rules in accordance with the Geonim, but I do not understand where he sees this.

¹⁰ Taz ibid. s.k. 3.

¹¹ Shu"t Mishpetei Uziel kerech 4—Inyanim Klali'im, end of siman 3 (*Mitzvas Tochacha*).

¹² Shu"t Chasam Sofer Y.D. siman 322 s.v. *Sarvan va'avaryan*.

³ Teshuvos HaGeonim (Lyc 5624) siman 10 p. 8; Shu"t HaGeonim (Yerushalayim 5720) siman 41; Shu"t Rivash siman 173, cited in *Bedek Habayis* Y.D. siman 334.

⁴ *Bedek Habayis* ibid.

⁵ Hagahos Shulchan Aruch ibid. 334:6.

⁶ Shabbos 119b.

(continued from page 1)



of *bishul* on Shabbos if the non-Jewish staff warms up TV dinners after Shabbos begins, since the food might not yet be fully defrosted and edible.

Another concern is *chalav* Yisrael. Even one

who does not avoid *chalav stam* milk must be aware that on a cruise, milk is sometimes sourced from countries where the governmental oversight on milk production is not to American standards, so R' Moshe Feinstein's *heter* to drink regular milk may not apply.

Another issue is *tznius* (depending upon the

weather and region), as some passengers may not be modestly attired.

Scan here to receive the weekly email version of the Halacha Journal or sign up at www.baishavaad.org/subscribe

Elevate your Inbox.



(continued from page 1)

sell the car at today's valuation, and pocket the spread. But may I do so?



DAYAN DANIEL DOMBROFF

It would seem that the customer's option to buy out a leased car is halachically defined as a *zechus* (right). This *zechus* belongs to the lessee, but when he returns the car to the dealer, he essentially is being *mafkir* (making ownerless) that *zechus*. The dealer then capitalizes on the opportunity and acquires that right from *hefker*. But when a man is discarding an item he doesn't know is valuable, the mitzvah of *hashavas aveidah* dictates that one must inform him of its value.

The Rama (C.M. 232:18 toward the end) discusses the case of a tin-plated gold ring whose owner believes it is solid tin. The Rama writes that because the owner is not aware of the true value of the ring, he does not halachically own it. Although this case may appear similar to ours, it is in fact different: In our case, the lessee is aware of his *zechus* to buy the car, he just doesn't know how valuable that *zechus* is. By contrast, the ring's owner is entirely unaware of the gold. Additionally, if the hidden value of the item is likely to be discovered, then it does belong to the item's owner. Here, the matter is not a secret, and the lessee will quite possibly find out about the value. It would therefore appear that the mitzvah of *hashavas aveidah* requires you to inform him of the value of the car before he relinquishes it.

all the difficulties raised by the Taz, citing Maharshah, are resolved, since for the benefit of the matter they are permitted to act thus...¹³

It should be noted that this entire discussion refers specifically to communal authorities such as courts, vested with formal authority over the community, and to the children of one who has been formally excommunicated, although it can be argued that at least some of the principles articulated in justification of using children in campaigns against their parents may be applicable in less-formal contexts as well.

¹³ Aruch Hashulchan ibid. se'if 6. Cf. R' Shmuel Baruch Genuth, *Hotza'as Yeladim Mimosad Limudi Eikev Hisnagug* Shil'is Shel Hahorim, Din-She'al Es HaRav.

ALLURE HEALTHCARE SERVICES Mr. and Mrs. Michael Nudell

BHHJ SPONSORS Mr. Baruch Abittan

To become a corporate sponsor of the BHHJ or disseminate in memory/zechus of a loved one, email info@baishavaad.org